DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, California 95814

ERRATA

REASON FOR THIS TRANSMITTAL
[ ] State Law Change
[ ] Federal Law or Regulation Change
[ ] Court Order
[ ] Clarification Requested by One or More Counties
[X] Initiated by CDSS

February 15, 2006

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY CHIEF PROBATION OFFICERS
ALL COUNTY CHILD WELFARE SERVICES PROGRAM MANAGERS

SUBJECT: **CORRECTION TO ALL COUNTY LETTER (ACL) NO. 05-13**

REFERENCE: ACL NO. 05-13, DATED JUNE 16, 2005, RELATIVE AND NONRELATIVE EXTENDED FAMILY MEMBER (NREFM) APPROVALS – FREQUENTLY ASKED QUESTIONS AND ANSWERS; CHILD WELFARE SERVICES/CASE MANAGEMENT SYSTEM (CWS/CMS) 5.4 RELEASE FUNCTIONALITY

The purpose of this Erratum is to clarify answers to several of the questions contained in Enclosure A of All County Letter (ACL) No. 05-13, dated June 16, 2005.

ACL No. 05-13 Question and Answer #2: Concerns a county's obligation to assess relatives for purposes of placement and approval.

The ACL incorrectly stated that counties are required to complete the approval process on a relative within the fifth degree of relatedness or a NREFM who requests placement within 30 days of the request or prior to the dispositional hearing, whichever is sooner.

Following several inquiries, the California Department of Social Services (CDSS) revisited the answer previously issued and determined that clarification was needed. The review revealed that there are two controlling authorities that set forth the requirements the county must follow in determining which relatives must be assessed/approved.

The first controlling authority is found in the *Higgins v Saenz* Settlement Agreement. The *Higgins* Agreement requires that within 30 days of a request or prior to the **disposition** hearing (whichever is sooner) that a relative who is an aunt, uncle, grandparent or adult sibling of the dependent child are the only people the county must assess for approval/ placement.

The second controlling authority is found in Welfare and Institutions Code (W&IC) Section 309(d)(1). That statute requires the county to assess an able, willing and available relative, as defined in W&IC Section 319(f), who requests temporary

placement of the child pending the **detention** hearing. The W&IC Sections 319(f) and 361.3(c)(2) provides that "relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand" or the spouse of any of these persons.

Therefore, a county will need to meet the appropriate requirement (either *Higgins* or the W&IC) based on the stage of the dependency process in which a relative makes a request for placement.

Counties have asked for more information regarding which relatives fall within the fifth degree of relatedness criterion. In keeping with Federal policy and W&IC Sections 319(f) and 361.3(c)(2), the following is a list of relatives and their respective degrees of relatedness.

1st degree = parent
2nd degree = grandparent, sibling
3rd degree = great grand parent, uncle or aunt, and niece or nephew
4th degree = great-great grandparent, great-uncle or aunt, and first cousin
5th degree = great-great-great grandparent, great-great uncle or aunt, and first cousin once removed

Additionally, degree of relatedness also attaches to stepparents and stepsiblings, as well as the spouse of any of the relatives enumerated above even if the marriage was terminated by death or dissolution.

ACL No. 05-13 Question and Answer #13: Concerns the one year assessment due date ("reassessment due date").

The original ACL provided policy regarding the due date solely based on terms of the *Higgins* lawsuit settlement agreement. The revised policy contained in this errata now additionally factors in the applicable Federal payment and eligibility standards in determining when the one year assessment due date (reassessment) is required (aka "timeliness").

The annual assessment (reassessment) is considered timely, and the placement remains eligible for Title IV-E funding, when the reassessment is completed by the end of the 12th month from which the prior or initial assessment was completed.

For example, if the initial or prior assessment was completed on June 15, 2005, the annual assessment (reassessment) must be completed by June 30, 2006. If the initial or prior assessment was completed on June 30, 2005, the reassessment must be completed by June 30, 2006.

ACL No. 05-13 Question and Answer #22 and 23: Concerns completion of criminal record exemptions.

The original ACL did not address criminal record exemptions based on criminal record information derived from the California Law Enforcement Telecommunications System (CLETS). The W&IC Section 309(d) allows for a CLETS-based exemption when making a temporary/emergency placement. If the CLETS check reveals no criminal record, and all the other placement requirements have been met, the child may be placed in the home immediately. If the CLETS check reveals exemptible criminal convictions and the child is to be placed in the home, a criminal record exemption must be done prior to placing the child in the home. The CLETS-based exemption process is exactly the same as the Live Scan exemption process, the difference being that the exemption can be processed with CLETS information rather than waiting for the Live Scan results. Consistent with statute, a Live Scan clearance must be initiated within five judicial days of the CLETS check and the results used to confirm the person's identity and the CLETS information. The Live Scan results should also confirm or match the criminal record information obtained via CLETS.

Additionally, W&IC Section 361.4(b) requires a CLETS check for all persons over the age of 18 years living in the relative/NREFM home. If a temporary/emergency placement is not being made, the CLETS check is not necessary since a Live Scan clearance is made prior to approval and placement.

ACL No. 05-13 Question and Answer #44, #45 and #46: Concerns plans of correction (also known as corrective action plans (CAPs).

The original ACL did not address what to do when making a temporary/emergency placement and a deficiency of the home is found that requires correction before the home can be determined to meet approval standards.

A child may be placed on a temporary/emergency basis with completion of a plan of correction pending, but only if the plan is to remedy a potential impact deficiency; no child may be placed where an immediate impact deficiency exists. (Please note: Emergency/ temporary placements are not eligible for Title IV-E funding.) If the temporary/emergency placement is to become the ongoing foster care placement, then the plan of correction bringing the home fully into compliance with approval standards must be completed prior to the date of approval.

If you have any questions regarding this erratum, please contact the Kinship Care Policy and Support Unit at (916) 657-1858.

Sincerely,

Original Document Signed By:

MARY L. AULT
Deputy Director
Children and Family Services Division

c: CWDA